

**AGENDA MEMO**

**CITY COUNCIL MEETING OF: DECEMBER 16, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-36271 - APPLICANT/OWNER: DINO MARINO**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (5-0-1/se vote) recommends APPROVAL, subject to conditions.

**Planning and Development**

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**Public Works**

2. Meet with the Traffic Engineering Representative in Land Development for assistance in the possible redesign of the proposed driveway access, on site circulation and parking layout prior to the submittal of any construction plans or the issuance of any permits, whichever may occur first. Driveways shall be designed, located and constructed in accordance with Standard Drawing #222.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow a 14-foot front yard setback, where a 20-foot front yard setback is the minimum required at 1717 Chapman Drive. The applicant is proposing to build a garage addition on the front of the residence that will encroach six feet into the required 20-foot front yard setback of the property. Staff cannot support this Variance request, as the applicant has not provided compelling evidence of a unique or extraordinary circumstance, and has created a self-imposed hardship by proposing to overbuild the site; therefore, staff is recommending denial of this request. If this application is denied, the subject site will remain in its existing condition.

**ISSUES**

- The applicant's hardship is self-preferential in that the physical design of the property does not hinder the placement of an addition to the existing structure such that code requirements for setbacks cannot be met.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc and Property Sales</i></b>	
11/19/09	The Planning Commission voted 5-0-1/se to recommend APPROVAL (PC Agenda Item #14/jb).
<b><i>Related Building Permits/Business Licenses</i></b>	
06/10/05	A Building Permit (#44641) was issued for a Hot Water Heater at 1717 Chapman Drive. The permit was expired on 12/08/05.
<b><i>Pre-Application Meeting</i></b>	
09/24/09	A pre-application meeting with the applicant was held where elements of submitting a Variance were discussed topics included: <ul style="list-style-type: none"><li>• Application Materials and Documents</li><li>• Meeting Dates and Deadlines</li></ul>
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	

<b><i>Field Check</i></b>	
10/15/09	During a routine site inspection, staff observed a well maintained single-family residence.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	0.41 Acres

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single-Family Residences	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single-Family Residences	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single-Family Residences	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single-Family Residences	L (Low Density Residential)	R-1 (Single Family Residential)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	N/A
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>			
A-O (Airport Overlay) District – (200 Feet)	X		Y
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

### *Pursuant to development standards set forth in Title 19.08*

<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Setbacks			
• Front	20 Feet	14 Feet	N
• Side (North)	5 Feet	5 Feet	Y
• Side (South)	5 Feet	10 Feet	Y
• Rear	15 Feet	70 Feet	Y

## ANALYSIS

Title 19.08.040, Table 1 requires a front yard setback of 20 feet in the R-1 (Single-Family Residential) zoning district. The placement of the proposed building addition is six feet closer to the front property line than allowed by code, a 30 percent deviation. The applicant has indicated that the proposed garage expansion is intended to create additional space for vehicle storage, and will not create any habitable space. However, the size and shape of the lot do not hinder conformance with the front yard setback requirement. Staff cannot support this Variance request as the applicant has not provided compelling evidence of a unique or extraordinary circumstance, and has created a self-imposed hardship by proposing to overbuild the site; therefore, staff is recommending denial of this request.

## FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented. The size and shape of the lot do not hinder conformance with the front yard setback standard. The applicant has created a self-imposed hardship by locating a proposed building addition to a single family dwelling within the required front yard setback area. Relocating the proposed structure at least 20 feet from the front property line would allow conformance to Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**PLANNING COMMISSION ACTION**

A petition supporting the application was submitted at the Planning Commission Meeting.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 15

**NOTICES MAILED** 305 by City Clerk

**APPROVALS** 7

**PROTESTS** 0